HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1344 of 2006

Between:

G. Aruna

… Appellant

And

Kakatiya University, Warangal & another

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Smt. K. Udaya Sri
for Shri G. Vidya Sagar

Counsel for the respondents : Shri Deepak Bhattacharjee

July 18, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 9.11.2006 passed by the learned Single Judge in WPMP No.17813 of 2005 (Writ Petition No.10433 of 2005) whereby he rejected the appellant's prayer for stay of the process of selection initiated by Kakatiya University, Warangal (for short, 'the University') for appointment on the post of Assistant Professor (Telugu).

A perusal of the record shows that in response to Notification dated 22.2.2005 issued by the University, the appellant and respondent No.2 applied for appointment as Assistant Professor (Telugu). They were interviewed on 18.6.2005. Immediately thereafter, the appellant filed Writ Petition No.14033 of 2005 for quashing the selection of respondent No.2 and also for issue of a

mandamus to the University to consider her candidature for the post of Assistant Professor. She also applied for stay of the selection of respondent No.2.

The learned Single Judge dismissed the miscellaneous petition by recording the following order:

> "The petitioner, in the writ petition, has questioned the appointment of the second respondent as Professor in Telugu Department of the first respondent-University. It is stated by the learned Standing Counsel for the first respondent-University that the duly constituted selection committee has made selections, in which recommendation was made in favour of the second respondent. In that view of the matter, I do not find any valid ground for grant of stay as prayed for, at this point of time.
>
> However, it is stated by the learned counsel for the petitioner that though the second respondent was selected and appointment orders were issued as early as in the month of August, 2005, but the second respondent has not joined in the post. It is made clear that if the second respondent has not joined in the post pursuant to her appointment order, it is open for the respondent to re-notify and fill up the vacancy."

Smt. K. Udaya Sri, learned counsel for the appellant made valiant effort to convince us that the discretion exercised by the learned Single Judge not to entertain her client's prayer for interim relief is vitiated by an error apparent, but we have not felt impressed. Rather, we are convinced that the course adopted by the learned Single Judge is the only one which is legally permissible.

It is settled law that the recommendations made by the Public Service Commissions and other recruiting authorities/ agencies do not create indefeasible right in favour of the selected candidate and ordinarily, such candidate cannot seek intervention of the Court for issue of a mandamus to the concerned authority to appoint him against the advertised post - **State of Haryana v. Subash Chander**[1], **Jatinder Kumar v. State of Punjab**[2] and **Shankarshan Dash v. Union of India**[3].

In view of the above stated legal position, a candidate like the appellant, who claims to have been placed at serial No.2 in the panel

{there is no evidence before the Court to find out whether or not the name of the appellant has been included in the panel prepared by the selection committee constituted by the University for recruitment on the post of Assistant Professor (Telugu)} cannot seek stay of the selection. Likewise, she cannot seek an interlocutory mandatory direction for appointment against the advertised post.

If the writ petition filed by the appellant is allowed and the Court comes to the conclusion that she had rightful claim for being selected, the Court may issue direction to the University to consider her candidature. In that event, she may or may not be selected. It can, thus, be said that the appellant's claim lies in the realm of speculation. That apart, the possibility of dismissal of the writ petition cannot be ruled out. Therefore, there is no justification, legal or otherwise, for passing an interim order which will have the effect of stultifying the process of selection or the recommendations made by the selection committee or for stalling the appointment of the selected candidate.

With the above observations, the appeal is dismissed

As a sequel to dismissal of the writ appeal, W.A.M.P.No.2845 of 2006 filed by the appellant for interim relief is also dismissed and order dated 26.12.2006 is vacated.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 13, 2007
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[1] AIR 1973 SC 2216

[2] AIR 1984 SC 1850

[3] AIR 1991 SC 1612